

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-091-01175M

Parcel No. 63-400-13-0260

LTC Jonesboro, Inc.,

Appellant,

vs.

Warren County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 5, 2016. Josh McCollum of McCollum Consulting, Fort Worth, Texas, represented LTC Jonesboro, Inc. The Board of Review did not participate at the hearing; it is represented by County Attorney John Criswell.

LTC Jonesboro is the owner of a multi-residential, 51-bed nursing home located at 921 Sunset Drive, Norwalk. Built in 1975, it has 15,202 square feet of gross building area; a detached garage; and 15,800 square feet of asphalt/concrete parking. The site is 3.17 acres.

The property's January 1, 2015, assessment was \$1,286,700, allocated as \$345,200 in land value and \$941,500 in improvement value. On its protest to the Board of Review, LTC Jonesboro claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied the petition. LTC Jonesboro then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b).

PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

A. Overassessment Claim

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Moreover, Iowa Code section 441.21 requires that the sales comparison approach to value be used to determine a property's fair market value unless its market value cannot be established by that method of valuation. Only where the parties convince PAAB that comparable sales do not exist or cannot *readily* determine market value than other factors such as cost and income can be used. *Id.* at 398 (emphasis added) (citing *Soifer*, 759 N.W.2d

at 782); *Carlson Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997); § 441.21(2).

ii. Findings of Fact

Josh McCollum testified on behalf of LTC Jonesboro. McCollum asserts the subject property is over assessed based on a cost and income analysis. LTC Jonesboro submitted both of these analyses. LTC Jonesboro's evidence notes the subject facility has between an 80% to 88% occupancy rate. (Ex. 1, pp.1-2). It is also rated below average overall based on health inspections, nursing home staffing, and quality measures. LTC Jonesboro submitted their operating statements from 2014 as additional support for the income approach that McCollum created. Additionally, it submitted a journal article relating to valuation of senior living facilities. Based on these analyses, it believes the correct valuation of its property is \$925,000.

iii. Analysis

LTC Jonesboro did not submit a sales comparison approach, nor did it establish that the subject property cannot be readily valued using this approach. Before turning to other factors, such as the cost or income approach, this showing must occur. For this reason, LTC Jonesboro's claim must fail.

Even though it has failed to prove its claim, we will address Jonesboro's cost and income analyses. LTC Jonesboro relied on a national cost data source, MARSHALL AND SWIFT, to develop its cost analysis. (Ex. 1 – Summary Report, p. 1). McCollum testified he applied 65% physical depreciation to the improvements. In his opinion, due to the property's age and small gross building area (GBA), it does not meet current market standards and demands. He admitted that he has not inspected the property and is unaware of its condition or actual floor plan and utility. For this reason, we question McCollum's ability to determine an appropriate rate of physical depreciation.

McCollum also explained he developed the income approach and relied solely on actual income and expenses. (Ex. 1, Valuation Analysis Conclusions). He applied a

capitalization rate of 12.5%, which he acquired from the SENIORS HOUSING AND CARE JOURNAL (SHCJ) 2011. (Ex. 1, SHCJ, pp. 27 & 30).

First, we note market rents and expenses must be used in the development of the income approach. For this reason alone, we reject the conclusions. Moreover, we do not consider a national journal article sufficient evidence of the capitalization rate that would be particular to the subject property and market area. Furthermore, the article is from 2011, and we do not believe its general analysis of capitalization rates would apply to a 2015 market value.

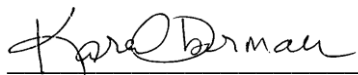
Based on the foregoing, we find that LTC Jonesboro has not met its burden of demonstrating the property is over assessed.

Order

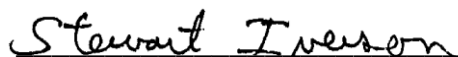
Having concluded that LTC Jonesboro, Inc. has not shown its property is over assessed, PAAB ORDERS that the Warren County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 18th day of August, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

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